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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/657,825	09/08/2003	Daniel J. Lincoln	3197-000006/COD	1,161		
27572	7590 08/09/2004	•	ĖXÀM	EXAMINER		
HARNESS, DICKEY & PIERCE, P.L.C.			BERHANE, ADOLF D			
P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			ART UNIT	PAPER NUMBER		
DECOM IEEE INEES, MI 10303			2838			
			DATE MAILED: 08/09/2004			

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)	Applicant(s)			
Office Action Summary		10/657,825	LINCOLN ET AL.				
		Examiner	Art Unit				
		Adolf Berhane	2838				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1)	Responsive to communication(s) filed on _						
2a) <u></u> □	This action is FINAL . 2b)⊠	This action is non-final.					
3)□	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
	closed in accordance with the practice und	der <i>Ex parte Quayle</i> , 1935	C.D. 11, 453 O.G. 213.				
Disposition of Claims							
4) Claim(s) 1-5 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 1-5 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.							
Applicati	on Papers						
9) The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
Attachmen	t(s)						
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)							
3) X Inform	e of Draftsperson's Patent Drawing Review (PTO-948 nation Disclosure Statement(s) (PTO-1449 or PTO/SI r No(s)/Mail Date 4/6/04.	3/08) 5) 🔲 Notice	No(s)/Mail Date c of Informal Patent Application (PT	O-152)			

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DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain <u>a</u> patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-5 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-5 of prior U.S. Patent No. 6,469,919. This is a double patenting rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adolf Berhane whose telephone number is 571-272-2077. The examiner can normally be reached on Monday- Friday 8 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Adolf Berhane Primary Examiner Art Unit 2838